

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Villaraigosa Analyst: Kristina E. North Bill Number: AB 1080
Related Bills: See legislative history Telephone: 845-6978 Amended Date: April 24, 2000
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Community Development Corporation Contributions Credit/Low-Income Housing Credit/Increases Maximum Aggregate Amount to \$150 Million For Calendar Year 2001

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

☒ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended July 1, 1999.

☒ FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO PENDING.

☒ REMAINDER OF PREVIOUS ANALYSES OF BILL AS INTRODUCED FEBRUARY 25, 1999, AND AMENDED APRIL 28, MAY 28, AND JULY 1, 1999, STILL APPLY.

☒ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would allow a credit for 50% of the amount contributed to an eligible community development corporation.

Under the PITL and the B&CTL, this bill also would increase the maximum aggregate allocation amount of the existing low-income housing credit to \$150 million for calendar year 2001.

Each of these provisions is discussed separately.

This bill also includes insurance tax law provisions, which are not discussed as they do not impact the department's programs or state income tax revenue.

SUMMARY OF AMENDMENT

The April 24, 2000, amendment added the low-income housing credit provision discussed in this analysis.

COMMUNITY DEVELOPMENT CORPORATION CREDIT

The department's prior analysis of the bill as amended July 1, 1999, still applies for the community development corporation credit. The technical considerations still apply and are provided below, as well as the amendments necessary to make the technical changes.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

Gerald H. Goldberg

5/25/00

TECHNICAL CONSIDERATIONS

The July 1, 1999, amendments made differing changes to subdivision (a) of the PITL section and the B&CTL sections. Amendment 1 would change the B&CTL section to be consistent with the PITL.

The July 1, 1999, amendments also made a technical change to the PITL, but inadvertently did not make the same change to the B&CTL. Amendment 2 would make the change in the B&CTL provisions.

LOW-INCOME HOUSING CREDIT

EFFECTIVE DATE

The increase in the maximum aggregate amount of the low-income housing credit would apply to calendar year 2001.

LEGISLATIVE HISTORY

AB 1903 (2000) would permit the state low-income housing tax credits to be transferred, sold or assigned separately from the federal low-income tax credits.

AB 1626 (Stats. 2000, Ch. 3) increased the maximum aggregate allocation amount of the low-income housing credit to \$50 million for each calendar year after 1999.

AB 168 (Stats. 1998, Ch. 9) increased the maximum aggregate allocation amount of the low-income housing credit to \$50 million for calendar years 1998 and 1999 only.

SPECIFIC FINDINGS

Current federal law allows a credit to an owner of a qualified low-income housing project that is constructed, rehabilitated, or acquired. The credit is claimed over a 10-year period that generally begins with the tax year the project is placed in service. The credit is claimed as part of the general business credit, which allows unused credits to be carried back one year and carried forward 20 years. The credit amount is based on the specified "applicable percentage" of the qualified basis of each qualified low-income building. The "applicable percentage" varies depending on several factors, including when the housing was placed in service and whether it was federally subsidized. A state authority created to oversee the process must allocate the credit. A qualified low-income housing project is any project for residential rental property that meets the specified requirements for low-income tenant occupancy and gross rent restrictions. The property must continually comply with all requirements throughout a 15-year compliance period or a portion of the credit must be recaptured.

Current state law conforms to federal law with some modifications, as follows:

- ◆ The state credit is claimed over four years, rather than over ten.
- ◆ The state credit is limited to projects located in California.

- ◆ The state credit specifies different "applicable percentages" upon which the amount of credit is computed.
- ◆ The Tax Credit Allocation Committee is allowed to allocate an annual maximum amount of \$50 million, plus unused or returned credit amounts from prior or current years. The committee provides listings of qualified taxpayers to the Franchise Tax Board.
- ◆ The state credit allows a corporation to assign any portion of the low-income housing credit to one or more affiliated corporations, provided the affiliation is 100% ownership.
- ◆ The state credit may reduce the regular tax below the tentative minimum tax for purposes of the alternative minimum tax calculation.
- ◆ The state credit may be carried over until exhausted if the credit exceeds the tax.

This provision would increase the maximum aggregate allocation amount of the low-income housing credit to \$150 million for calendar year 2001.

Implementation Consideration

Implementation of this provision would not significantly impact the department.

FISCAL IMPACT

Departmental Costs

This provision would not significantly impact the department's costs.

Tax Revenue Estimate

Estimates below for the low-income housing credit reflect incremental losses due to the additional allocation of \$100 million in credits for calendar year 2001. Moreover, incremental losses would increase significantly for years beyond those reflected in the table. For example, losses are estimated at \$12 million and \$19 million for 2004/2005 and 2005/2006.

Estimated Revenue Impact of AB 1080 Low-Income Housing Credit Provision As Amended April 24, 2000 [\$ In Millions]				
Fiscal Years	2000/2001	2001/2002	2002/2003	2003/2004
Low-Income Housing Credit	—	—	-\$1	-\$5

Total credits allocated and amounts applied each year to reduce tax liabilities would drive the revenue impact of this bill.

Based on information from the committee, the additional \$100 million low-income housing credits are assumed to be allocated ratably over a four-year period beginning with 2001. The majority of low-income housing credits are allocated in advance of project completion and would likely not be reported for tax purposes until beginning in the second or third year after allocation. Additional credits allocated are assumed reported on tax returns over a four-year period.

BOARD POSITION

Pending.

At its July 6, 1999, meeting, the Franchise Tax Board had voted 2-0 to take a neutral position on community development corporation credit provided by this bill, as amended May 28, 1999. The Franchise Tax Board has not reviewed the amendments increasing the allocation of the low-income housing credit.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1080
As Amended April 24, 2000

AMENDMENT 1

On page 41, lines 26 and 27, strikeout "contribution allocated a tax credit" and insert:

contribution, certified

AMENDMENT 2

On page 44, lines 32 and 33, strikeout "paid or incurred" and insert:
made